

HB 345 - How It Works

You are hit and injured by another driver that runs a red light, you have \$25,000 in medical bills already with more medical treatment likely, \$2,500 lost wages, plus \$10,000 in property damage. Creditors are hounding you.

You submit a claim to the driver's insurance company, along with copies of current bills. The insurer doesn't investigate the incident and offers you \$25,000 to settle the whole thing. Despite your repeated contacts, more copies of your damages, notice that creditors are hounding you etc. they refuse to agree to a reasonable settlement.

You hire an attorney and sue the driver. You win the case and the jury awards you \$100,000 - the \$25,000 in past medical bills, \$5,000 lost wages, \$10,000 for property damages, \$20,000 for future medical bills, \$15,000 for lost course of life and \$25,000 for pain caused by the accident. Out of the \$100,000, you pay your attorney \$30,000 for her services and costs in bringing and winning the suit.

After you have won your suit in the **underlying claim** (required by statute - section 6(b) on page 2 of the bill), you file a claim against the insurer alleging that they violated the Unfair Claims Practices Act (**33-18-201**). You prove that the insurer did violate the Act and you ask for damages caused by the insurer's violation of the Act.

HB 345 provides that the attorney fees and costs you paid in the **underlying claim** - the \$30,000 - **are some of damages you are entitled to - you only incurred those costs because the insurer failed to investigate, adjust or settle the claim in good faith. The Supreme Court (*Sampson*) said that the legislature had to specify that attorney fees in the underlying case were damages.**

Your attorney does not get the **\$30,000** again. The \$30,000 is money that you receive for damages in the bad faith claim.

HB 345 **does not** allow attorney fees to be paid for either party in the bad faith claim - each party is responsible for paying their own attorney fees.

Underlying Accident Claim (You sue negligent driver)		Attorney Fees
Insured/Claimant		Insurer/Driver Pays Its Own
\$100,000 Judgment		Claimant Pays His Own
- \$30,000 for Attorney Fees		
Bad Faith Claim (You sue insurer for violating 33-18-201)		Attorney Fees
Damages include the \$30,000 he had to pay for attorney fees in the underlying claim above, plus other damages proximately caused by the insurer's violation of 33-18-201.		Insurer Pays Its Own Claimant Pays His Own